

10-28-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #73

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Cancellation No. 29,773

Cancellation No. 29,864

Nutro Products, Inc.

v.

M.I. Industries, Inc.

RESPONSE

Assistant Commissioner for Trademarks

Arlington Virginia 22202,3513

Attn: Clara Vela

Sir:

This is in response to the letter dated October 23, 2002, a copy of which is enclosed for your convenience

This dispute was settled by agreement between the parties. Both of these cancellation proceedings have become moot.

Cancellation 29,773 related to Reg. No. 2,229,094 for Natural Choice. It was assigned to the cancellation petitioner. At the Examiner level this removed all rejections to petitioner's application to obtain its own registration and as a consequence, Reg. No. 2,587,083 issued July 2, 2002 on Serial No. 75/694,901. A copy of an amendment dated April 7, 2000 is attached with its exhibits whose Remarks explain the situation in detail. Cancellation 29,773 is therefore moot and should be dismissed from the Board's docket.

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28 October

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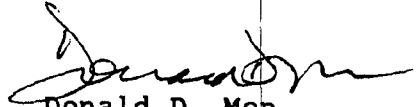
Donald D. Hon

Reg. No. 18,255

Cancellation 29,864 related to Reg. No. 2,200,560 for Natural Choice Meat Counter Treats. This registration was voluntarily surrendered by the respondent herein, and was cancelled. A copy of the Voluntary Surrender document is enclosed. Cancellation 29,864 is therefore moot and should be dismissed from the Board's docket.

Should there be a problem, a phone call to the undersigned would be much appreciated.

Respectfully submitted



Donald D. Mon
Attorney for Applicant
Registration No. 18,255

DDM:gk
(626)793-9173

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Cancellation No. 29,773
Cancellation No. 29,864

Nutro Products, Inc.

v.

M. I. Industries, Inc.

MAILED
OCT 23 2002
PAT. & T.M. OFFICE

The parties are allowed until thirty days from the mailing date of this order to inform the Board of the status of the civil action which occasioned the suspension of this proceeding. If no response to this order is received from either party, then proceedings will be resumed and appropriate dates will be reset by the Board.



Clara Vela,
Legal Assistant,
Trademark Trial and
Appeal Board
(703) 308-9330, ext. 150

MEAT COUNTER QUALITY TREATS" without prejudice.

Respondent
M.I. Industries, Incorporated

Dated:

By: Robert S. Milligan
Robert S. Milligan
President

Petitioner, Nutro Products, Inc., hereby consents to the voluntary surrender by
Registrant of Registration No. 2,200,560.

Petitioner
Nutro Products, Inc.

Dated:

By: David T. Traitel
David T. Traitel
Chairman of the Board

"Exhibit A"

**In the Matter of:
Trademark Registration No. 2,229,094
Mark: NATURAL CHOICE
Date of Issue: March 2, 1999**

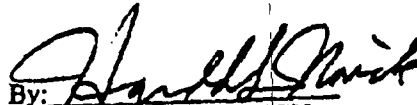
Respondent.

Cancellation No. 29,773
Registration No.: 2,129,094
Date of Issue: March 2, 1999

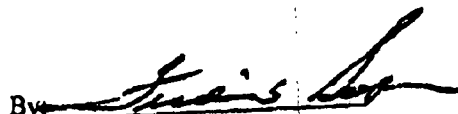
It is hereby stipulated by and between Petitioner, NUTRO PRODUCTS, INC. and Respondent, M.I. INDUSTRIES, INCORPORATED, that Cancellation Proceeding

Number 29,773, according to agreement of the parties, be dismissed without prejudice.

Dated: March 21, 2000

By: 
HAROLD L. NOVICK
Nath And Associates
1030 15th Street, N.W., Sixth
Floor
Washington, D.C. 20005
Attorney for Respondent

Dated: March 21, 2000

By: 
FREDERICK GOTHA
Attorney for Petitioner
80 S. Lake Ave., Ste 823
Pasadena, CA 91101
Tele: (626) 796-1849

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FROM: (PLEASE PRINT) DONALD O. MON 750 E GREEN ST STE 303 PASADENA CA 91101-2134 4391A	TO: (PLEASE PRINT) Box Response - No Fee Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, Virginia 22202-3513
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Case

Products, Inc.

Applic

04-07-2000

Serial

U.S. Patent & TM Office Mail Rpt Dt #70 Products, Inc.
94,901

Filed:

April 29, 1999

Trademark

Attorney:

Ysa de Jesus

For: NATURAL Choice

Amendment/Voluntary Surrender/Stipulation to
Dismiss Cancellation Proceedings/Certificate
of Express Mail /Copy of Assignment

Mailed: April 7, 2000 (Express Mail)

4391A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Nutro Products, Inc.

Serial No.: 75/694,901

Filed: April 29, 1999

Trademark
Attorney: Ysa de Jesus

For: NATURAL CHOICE

Pasadena, California 91101

April 7, 2000

AMENDMENT

Assistant Commissioner for Trademarks

Arlington, Virginia 22202-3513

Sir:

Please enter this amendment in the above-identified trademark application.

IN THE STATEMENT:

Page 1 line 12 1/2, after "commerce" please enter the following new paragraph:

--Applicant owns United States trademark application No. 2,229,094.--

REMARKS

In his response dated February 24, 2000, the undersigned discussed the rejections of this application, and discussed the existence of litigation and petitions to cancel. Suspension of

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2900 Crystal Drive, Arlington, VA 22202-3513
Donald D. Hox Reg. No. 16,255

examination of this registration was requested. These matters have been settled in applicant's favor, so that resumption of examination is requested at this time.

In the examination of this trademark application the Examining Attorney will find two existing registrations, Nos. 2,200,560 for Natural Choice - Meat Counter Quality treats, and 2,229,094 for Natural Choice. Only '094 has been cited. The applicant herein filed petitions to cancel both of those registrations, Cancellation Nos. 29,864 and 29,773, respectively, and a civil action in Federal court to enjoin the registration M.I. Industries from further use of the mark.

A settlement has been reached to all of these proceedings. Reg. No. 2,200,560 has been surrendered by the registrant. Reg. No. 2,229,094 (for Natural Choice), the ground for rejection, has been assigned to the applicant. This assignment is being submitted for recordation today.

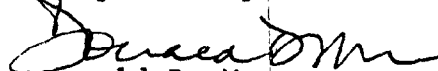
A copy of the surrender of Reg. No. 2,200,560, a copy of the stipulation to dismiss the cancellation proceeding for Reg. No. 2,229,094, and a copy of the assignment to applicant of Reg. No. 2,229,094 as submitted for recordation are all enclosed herein for the files of this application.

Ownership by the applicant of Reg. No. 2,229,094 is claimed by amendment, above, thereby removing it as a ground for rejection.

The rejection on Nature's Choice is discussed in the previous response, and is repeated here by reference. In view of applicant's ownership of the previously granted registration of Natural Choice, this rejection is submitted also to be moot.

The application appears to be in condition for allowance. Resumption of prosecution, reconsideration of this application allowance, and passage to publication of this application are respectfully solicited.

Respectfully submitted,



Donald D. Mon
Attorney for Applicant
Registration No. 18,255

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(626)793-9173
enc.